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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

WEI XIONG,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of the  
 Department of Homeland Security;  
 EMILIO T. GONZALES, Director of  
 U.S. Citizen and Immigration Services;  
 ROBERT S. MUELLER, Director of  
 Federal Bureau of Investigations,

Defendants.

No. C 07-5907 JCS

**JOINT CASE MANAGEMENT  
 STATEMENT and [Proposed] ORDER**

1. Jurisdiction and Service:

The basis asserted by plaintiff for this Court's jurisdiction is 28 U.S.C. §§ 1331 and 1361, 5 U.S.C. §§ 551 et seq., and 701 et seq., and 28 U.S.C. § 2201 et seq. The parties do not dispute that venue is proper in this district. No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

2. Facts:

Plaintiff filed a Form I-485 application to adjust his status to lawful permanent resident with the United States Citizenship and Immigration Services (USCIS) on or about August 8, 2005. The USCIS has not yet adjudicated the Form I-485 application. The Plaintiff filed an action on

1 November 21, 2007, seeking an order from this Court directing USCIS to adjudicate Plaintiff's  
2 Form I-485 application.

3 3. Legal Issues:

4 Whether this Court should dismiss the Plaintiff's action for lack of subject matter jurisdiction.  
5 If this Court has jurisdiction, whether the USCIS is processing the Plaintiff's I-485 application  
6 within a reasonable period of time.

7 4. Motions:

8 The parties intend to file cross-motions for summary judgment.

9 5. Amendment of Pleadings:

10 No parties, claims or defenses are expected to be added or dismissed.

11 6. Evidence Preservation:

12 The parties do not have any evidence that falls within this category.

13 7. Disclosures:

14 The parties believe that the initial disclosure requirements of Fed. R. Civ. P. 26 do not apply to  
15 this case.

16 8. Discovery:

17 The parties do not intend to take any discovery at this time.

18 9. Class Actions:

19 N/A

20 10. Related Cases:

21 The parties are not aware of any related case or cases.

22 11. Relief:

23 The Plaintiff asks this Court to direct USCIS to adjudicate his I-485 application.

24 12. Settlement and ADR:

25 The Court granted the parties' request to be exempt from formal ADR process on February 12,  
26 2008.

27 13. Consent to Magistrate Judge for All Purposes:

28 The parties consent to a magistrate judge.

1 14. Other References:

2 The parties do not believe that this case is suitable for reference to binding arbitration, a  
3 special master, or the Judicial Panel on Multidistrict Litigation.

4 15. Narrowing of Issues:

5 The parties do not believe that the issues can be narrowed by agreement or by motion, and do  
6 not have suggestions to expedite the presentation of evidence at trial (e.g. through summaries or  
7 stipulated facts), and any request to bifurcate issues, claims or defenses.

8 16. Expedited Schedule:

9 The parties believe this case can be resolved on cross-motions for summary judgment.

10 17. Scheduling:

11 The parties propose the following schedule on the parties' cross-motions for summary  
12 judgment:

13 Cross-Motions for Summary Judgment: March 28, 2008

14 Cross-Oppositions: April 11, 2008

15 Hearing: April 25, 2008 at 9:30 a.m.

16 18. Trial:

17 The parties do not anticipate the need for a trial in this case.

18 19. Disclosure of Non-party Interested Entities or Persons:

19 The parties' intend to file the "Certification of Interested Entities or Persons" required by Civil  
20 Local Rule 3-16.

21 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this  
22 matter.

23 None.

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25 ///

26 ///

1 Date: February 21, 2008

Respectfully submitted,

2 JOSEPH P. RUSSONIELLO  
3 United States Attorney

4 /s/  
5 EDWARD A. OLSEN<sup>1</sup>  
6 Assistant United States Attorney  
7 Attorneys for Defendant

8 Date: February 21, 2008

9 /s/  
10 WEI XIONG  
11 *Pro se*

12 **CASE MANAGEMENT ORDER**

13 The Joint Case Management Statement and Proposed Order are hereby adopted by the  
14 Court as the Case Management Order for the case, and the parties are ordered to comply with this  
15 Order.

16 Date:

17 JOSEPH C. SPERO  
18 United States Magistrate Judge  
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26 \_\_\_\_\_  
27 <sup>1</sup> I, Edward Olsen, hereby attest that I have on file all holograph signatures for any  
28 signatures indicated by a “conformed” signature (/s/) within this efiled document.